

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

PATENT APPLICATION

Applicants : Michael D. Ellis et al.  
Application No. : 09/330,519 Confirmation No. : 9514  
Filed : June 11, 1999  
For : INTERACTIVE TELEVISION PROGRAM GUIDE  
WITH ON-DEMAND DATA SUPPLEMENTATION  
Art Unit : 2623  
Examiner : Farzana E. Hossain

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Commissioner for Patents  
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New York, New York 10036  
June 23, 2008

PRE-APPEAL-BRIEF REQUEST FOR REVIEW

Sir:

Applicants request review of the Office Action dated February 21, 2008. No amendments are being filed with this Request, which is being filed with a Notice of Appeal.

**Concise Argument for Which Review is Being Requested** begins on page 2 of this Pre-Appeal-Brief Request for Review.

## CONCISE ARGUMENT FOR WHICH REVIEW IS BEING REQUESTED

### Summary of Office Action

Claims 51-56, 58, 60-81, 83, and 85-100 are pending in the above-identified patent application.

The Examiner has rejected claims 51, 52, 54-56, 58, 60, 61, 68, 69, 71, 76, 77, 79-81, 83, 85, 86, 93, 94, and 96 under 35 U.S.C. § 102(b) as being anticipated by Lawler et al. U.S. Patent No. 5,805,763. Claims 53 and 78 have been rejected under 35 U.S.C. § 103(a) as being obvious from Lawler in view of Hendricks et al. U.S. Patent No. 5,600,364. Claims 62, 65, 66, 72, 74, 75, 87, 90, 91, 97, 99, and 100 have been rejected under 35 U.S.C. § 103(a) as being obvious from Lawler in view of Matthews III et al. U.S. Patent No. 6,025,837. Claims 63, 64, 67, 69, 70, 88, 89, 92, 94, and 95 have been rejected under 35 U.S.C. § 103(a) as being obvious from Lawler in view of Shoff et al. U.S. Patent No. 6,240,555. Claims 73 and 98 have been rejected under 35 U.S.C. § 103(a) as being obvious from Lawler in view of Lawler et al. U.S. Patent Publication No. 2005/0160452 (hereinafter "Lawler2").

### Applicants' Claimed Invention

Applicants' invention relates to automatically supplying supplemental data from a remote memory to an interactive television program guide in advance of a potential upcoming need. The interactive television program guide monitors program listings displayed in the interactive program guide, as the user browses through the interactive program guide, to determine a potential upcoming need for a given portion of the supplemental data. Responsive to determining the potential upcoming need based on the program listings displayed in the interactive program guide as the user browses through the interactive program guide, the system automatically supplies the given portion of the supplemental data from the remote memory to the interactive television program guide in advance of the upcoming need.

For example, according to page 21, lines 7-15 of applicants' specification:

[A]s the user browses through program listings grid 50 of FIG. 4, the program guide may monitor which programs in program listings grid 50 are being displayed on monitor 75. The program guide may then retrieve supplemental information that provides more detailed information for those programs from remote memory 78 and may store the supplemental information relating to those programs in local memory 88.

Accordingly, applicants' program guide retrieves supplemental information in advance of a user request for the supplemental information in order to minimize the delay associated with displaying the supplemental information.

### The Reference

Lawler discloses a system that allows users to select and record programs using a program grid. See Lawler, col. 1, lines 45-50. The system includes an input device with a navigation key which allows a user to navigate through the program grid. See Lawler, col. 8, lines 54-59. In one embodiment, the system monitors whether the navigation key is pressed to determine a need for additional program schedule information. In particular, according to col. 14, lines 16-29 of Lawler:

[T]he CPU also monitors to see if the navigation key 74 is pressed. . . . If the navigation key 74 is pressed, the CPU updates the position of the focus frame, block 259; retrieves, as needed, program schedule information from the head end to update the program summary panel, block 260; and, if necessary, updates the display date panel, block 262. If the focus frame 102 has been moved beyond the roam area, block 264, the CPU obtains additional program schedule information, 266-272, scrolls the program grid, block 274, and returns to block 210 to display the scrolled grid.

In another embodiment the program grid includes a focus frame for identifying a selected program title. See Lawler, col. 8, lines 5-7. The focus frame can be freely moved within a roam area (i.e. the visible columns and rows of the program grid). When the focus frame is moved to a row or column outside the roam area, the system obtains program schedule information for that row or column. See Lawler, col. 9, lines 9-34 and Fig. 3.

### Clear Error in the Rejection

The Examiner contends that Lawler discloses "monitoring program listings displayed in the interactive program guide, as the user browses through the interactive program guide, to determine a potential upcoming need for a given portion of the supplemental data" and "responsive to determining the potential upcoming need based on the program listings displayed in the interactive program guide as the user browses through the interactive program guide, automatically supplying the given portion of the supplemental data from the remote memory to

the interactive television program guide in advance of the upcoming need," as defined by applicants' independent claims 51 and 76. See Office Action, pages 3 and 4. Applicants respectfully disagree.

First, applicants respectfully submit that Lawler does not show or suggest monitoring "program listings displayed in the interactive program guide as the user browses through the interactive program guide." Rather, Lawler discloses monitoring the position of the focus frame as the user browses through the program guide, to determine whether the focus frame has been moved beyond the roam area. See Lawler, col. 14, lines 16-29. As such, Lawler emphasizes tracking positional movement within the program guide, while applicants' claimed invention relates to monitoring which particular program listings are displayed in the program guide.

Second, applicants respectfully submit that Lawler fails to disclose determining a potential upcoming need for supplemental data. Applicants' claimed invention includes a program guide which monitors the program listings displayed in the program guide and anticipates that the user may, but does not necessarily, want to view supplemental data for the programs listed. The program guide then retrieves the supplemental data even before the user requests the supplemental data. See Specification, page 20, lines 14-18 and page 21, lines 15-19. In contrast to applicants' claimed invention, Lawler's system initially determines that the navigation key on the input device has been pressed to indicate an established need for program schedule information (e.g., because the focus frame has been moved beyond the roam area) before retrieving additional program schedule information needed to populate the next row or column in the program guide.

Thus Lawler fails to disclose "monitoring program listings displayed in the interactive program guide, as the user browses through the interactive program guide, to determine a potential upcoming need for a given portion of the supplemental data," as defined by applicants' independent claims 51 and 76.

Third, Lawler also fails to disclose automatically supplying "supplemental data from the remote memory to the interactive television program guide," as defined by applicants' independent claims 51 and 76. Applicants' specification states that supplemental information may include, for example, biographies, advertisements, trivia, and Internet addresses. See Specification, page 19, lines 10-30. In contrast, applicants' specification states that program

guide information may include, for example, program titles, times, channels and ratings, and other information that is "typically displayed by the program guide on a program guide display screen such as program grid 50 of FIG. 4 or program information screen 70 of FIG. 7." See Specification, page 18, lines 22-32. Contrary to the Examiner's contention, it is clear that the information supplied by Lawler when the focus frame is moved beyond the roam area is program guide information (referred to in Lawler as "program schedule information"), not supplemental data as defined in applicants' claims and specification. See Lawler, col. 9, lines 9-24 and col. 14, lines 27-29.

Fourth, Lawler does not disclose supplying supplemental data "responsive to determining [a] potential upcoming need based on the program listings displayed in the interactive program guide as the user browses through the interactive program guide." It can be seen from the above-cited text that Lawler supplies the program guide information in response to determining an established need for program schedule information when the focus frame is moved beyond the roam area, not in response to determining a potential upcoming need based on the program listings displayed in the interactive program guide.

Thus Lawler also fails to disclose "responsive to determining the potential upcoming need based on the program listings displayed in the interactive program guide as the user browses through the interactive program guide, automatically supplying the given portion of the supplemental data from the remote memory to the interactive television program guide in advance of the upcoming need," as defined by applicants' independent claims 51 and 76.

It is axiomatic that for a reference to anticipate a claim, it must necessarily show each and every element of the claim. However, as demonstrated above, Lawler shows neither "monitoring program listings displayed in an interactive program guide, as the user browses through the interactive program guide, to determine a potential upcoming need for a given portion of the supplemental data" nor "responsive to determining the potential upcoming need based on the program listings displayed in the interactive program guide as the user browses through the interactive program guide, automatically supplying the given portion of the supplemental data from the remote memory to the interactive television program guide in advance of the upcoming need," as defined by applicants' independent claims 51 and 76. Hendricks, Matthews III, Shoff, and Lawler2, which were applied by the Examiner for the alleged showing of other elements of applicants' claims, do not make up the deficiencies of

Lawler in failing to show or suggest the claimed invention.

For at least these reasons, applicants respectfully submit that independent claims 51 and 76 cannot be anticipated by Lawler, and dependent claims 52, 54-56, 58, 60, 61, 68, 69, 71, 77, 79-81, 83, 85, 86, 93, 94, and 96 cannot be obvious based on Lawler in view of Hendricks, Matthews, Shoff, and Lawler2. Applicants respectfully submit that the continued rejection of claims 51-56, 58, 60-81, 83, and 85-100, ignoring the aforementioned limitations, is therefore clear error.

### Conclusion

For at least the reasons set forth above, applicants respectfully submit that claims 51 and 76 are patentable, and claims 52, 54-56, 58, 60, 61, 68, 69, 71, 77, 79-81, 83, 85, 86, 93, 94, and 96, which depend from claims 51 and 76, are therefore patentable as well.

Panel review of the rejections, and prompt allowance of this application, are respectfully requested.

Respectfully submitted,

/Baaba Andam/

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